

### REMARKS

Claims 1-4 and 16-19 are amended. Claims 5-15 and 20 are canceled without prejudice or disclaimer. Claims 1-4 and 16-19 are pending. By amending and canceling the claims, applicant is not conceding that the claims are non-statutory under 35 U.S.C. 101, 102, 103, and 112 and is not conceding that the claims are unpatentable over the references cited by the Office Action, as the claim amendments are only for the purpose of facilitating expeditious prosecution. Applicant respectfully reserves the right to pursue the subject matter of the claims as it existed prior to any amendment or cancellation in one or more continuation and/or divisional applications. No new matter is added by these amendments. Applicant respectfully requests reconsideration and allowance of all claims in view of the amendments above and the remarks that follow.

#### Claim Objections

Claims 14 and 15 are objected to. Claims 14 and 15 are canceled without prejudice or disclaimer, so the objections are moot.

#### 35 U.S.C. 101 Rejections

Claims 1-4 and 16-19 are rejected under 35 U.S.C. 101 because "there is no tangible result to these claims."

Applicant respectfully traverses these grounds for rejection because claim 1 recites: "reporting a plurality of differences between the plurality of first performance metrics for the plurality of respective logical partitions and a plurality of expected performance metrics for the plurality of respective logical partitions, wherein the plurality of expected performance metrics are expected to occur when the respective partition is an only partition executing in the computer, wherein the reporting the plurality of differences between the plurality of first performance metrics for the plurality of respective logical partitions and the plurality of expected performance metrics for the plurality of respective logical partitions further comprises displaying data on a video

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display;... shutting down a second partition of the plurality of logical partitions in the computer.” By reporting and shutting down a second partition, claim 1 transforms the computer into a different state, which provides a tangible result because, as recited in MPEP 2106(IV)(C)(1)(1): “USPTO personnel first shall review the claim and determine if it provides a transformation or reduction of an article to a different state or thing. If USPTO personnel find such a transformation or reduction, USPTO personnel shall end the inquiry and find that the claim meets the statutory requirement of 35 U.S.C. 101.”

Claim 16 recites similar elements as argued above for claim 1 and is statutory under 35 U.S.C. 101 for similar reasons. Claims 2-4 and 17-19 are statutory under 35 U.S.C. 101 for depending on claims 1 and 16, respectively.

Claims 5-15 and 20 are rejected under 35 U.S.C. 101. Claims 5-15 and 20 are canceled without prejudice or disclaimer, so the rejections are moot.

#### 35 U.S.C. 112 Rejections

Claims 1 and 16 are rejected under 35 U.S.C. 112 because “it is unclear what type of performance metric is being collected.” Claim 1 is amended to recite: “collecting a plurality of first performance metrics in a sampling interval for the plurality of respective logical partitions of the computer and collecting a plurality of second performance metrics for a plurality of respective jobs in a first partition of the plurality of logical partitions in the computer,” which makes the performance metrics clear. Claim 16 is amended to recite: “configuring the computer to, if the computer is partitioned into the plurality of logical partitions, collect a plurality of first performance metrics in a sampling interval for the plurality of respective logical partitions of the computer and collect a plurality of second performance metrics for a plurality of respective jobs in a first partition of the plurality of logical partitions in the computer,” which makes the performance metrics clear.

Claims 1 and 16 are rejected under 35 U.S.C. 112 because “it is not clear the meaning of ‘performance metric occurs when the first partition is an only partition.’”

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Claim 1 is amended to recite: "the plurality of expected performance metrics are expected to occur when the respective partition is an only partition executing in the computer," which makes the performance metric clear. Claim 16 is amended to recite: "the plurality of expected performance metrics are expected to occur when the respective partition is an only partition executing in the computer," which makes the performance metric clear.

Claims 2 and 17 are rejected under 35 U.S.C. 112 because the meaning of "average number of cycles per instruction of the first partition" "is not clear." Claim 2 is amended to recite: "the plurality of first performance metrics comprise an average number of cycles per instruction for the respective partition during the sampling interval," which clarifies the average number of cycles per instruction. Claim 17 is amended to recite: "the plurality of first performance metrics comprise an average number of cycles per instruction for the respective partition during the sampling interval," which clarifies the average number of cycles per instruction.

Claims 4 and 19 are rejected under 35 U.S.C. 112 because "it is unclear what type of performance metric is being collected." Claim 1, on which claim 4 depends, is amended to recite: "collecting a plurality of first performance metrics in a sampling interval for the plurality of respective logical partitions of the computer and collecting a plurality of second performance metrics for a plurality of respective jobs in a first partition of the plurality of logical partitions in the computer," which makes the performance metrics clear. Claim 16, on which claim 19 depends, is amended to recite: "configuring the computer to, if the computer is partitioned into the plurality of logical partitions, collect a plurality of first performance metrics in a sampling interval for the plurality of respective logical partitions of the computer and collect a plurality of second performance metrics for a plurality of respective jobs in a first partition of the plurality of logical partitions in the computer," which makes the performance metrics clear.

Claims 4 and 19 are rejected under 35 U.S.C. 112 because "it is not clear the relation between the first partition and the second partition." Claim 1, on which claim 4 depends, is amended to recite: "determining whether a computer is partitioned into a

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plurality of logical partitions; if the computer is partitioned into the plurality of logical partitions, collecting a plurality of first performance metrics in a sampling interval for the plurality of respective logical partitions of the computer and collecting a plurality of second performance metrics for a plurality of respective jobs in a first partition of the plurality of logical partitions in the computer, ...shutting down a second partition of the plurality of logical partitions in the computer," which clarifies the relationship between the first partition and the second partition. Claim 16, on which claim 19 depends, is amended to recite: "configuring the computer to determine whether a computer is partitioned into a plurality of logical partitions; configuring the computer to, if the computer is partitioned into the plurality of logical partitions, collect a plurality of first performance metrics in a sampling interval for the plurality of respective logical partitions of the computer and collect a plurality of second performance metrics for a plurality of respective jobs in a first partition of the plurality of logical partitions in the computer, ...configuring the computer to, if the total degradation for the plurality of the jobs in the first partition exceeds the threshold, shut down a second partition of the plurality of logical partitions in the computer," which clarifies the relationship between the first partition and the second partition.

Claims 5-15 and 20 are rejected under 35 U.S.C. 112. Claims 5-15 and 20 are canceled without prejudice or disclaimer, so the rejections are moot.

#### 35 U.S.C. 103 Rejections

Claims 1, 3, 16, and 18 are rejected under 35 U.S.C. 103(a) over Stein ("Slicing the AS/400 with Logical Partitioning: A How to Guide," IBM, 1999) in view of Ding (US Patent Number 6,691,067). Claims 2 and 17 are rejected under 35 U.S.C. 103(a) over Stein, Ding, and Stephens ("Instruction Level Profiling and Evaluation of IBM RS/6000," ACM, 1991). Claims 4, 5, 19, and 20 are rejected under 35 U.S.C. 103(a) over Stein, Ding, and Dawkins (US Patent Number 6,820,207). Claims 6, 7, 10, and 13

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are rejected under 35 U.S.C. 103(a) over Stein and Stephens. Claims 8, 9, 11, 12, 14, and 15 are rejected under 35 U.S.C. 103(a) over Stein, Stephens, and Dawkins.

Applicant respectfully submits that the claims are patentable over Stein, Stephens, Ding, and Dawkins, in any combination, because Stein, Stephens, Ding, and Dawkins, in any combination, do not teach or suggest all of the elements of the claims, for the reasons argued below.

Claim 1 recites: "if the total degradation for the plurality of the jobs in the first partition exceeds the threshold, shutting down a second partition of the plurality of logical partitions in the computer," which is not taught or suggested by Stein, Stephens, Ding, and Dawkins, in any combination, for the reasons argued below. The Office Action admits that Stein, Stephens, and Ding do not describe shutting down a second partition if the determining of whether a difference between the performance metric and an expected performance metric exceeds a threshold is true, and the Office Action relies on Dawkins at the abstract, lines 3-8, and column 9, lines 40-50.

In contrast to claim 1, the Dawkins abstract, lines 3-8 recites: "Responsive to receiving a request to turn off the power for a logical partition within the plurality of logical partitions in the data processing system, a determination is made as to whether an additional partition within the plurality of logical partitions is present in the data processing system," and Dawkins at column 9, lines 40-50 recites: "The process is initiated when the partition operating system executes a shut down. This shut down is initiated by the activation of a virtual power button in the data processing system. This virtual power button may be represented as a button in a graphical user interface or as a command. In response to receiving logical partition power off request from the operating system, the request is passed to a partition manager, such as hypervisor 410 in FIG. 4 (step 600). A determination is made as to whether the hypervisor decides if another the active partition is present (step 602). If the hypervisor decides that another active partition is present, logical partition power off is sent to the service processor (step 604) with the process terminating thereafter."

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Thus, Dawkins, "Responsive to receiving a request to turn off the power" or "by the activation of a virtual power button," sends a "logical partition power off ... to the service processor." Hence, since Dawkins performs its logical partition power off in response to a request or activation of a virtual power off button and not "if the total degradation for the plurality of the jobs in the first partition exceeds the threshold," as recited in claim 1, Dawkins does not teach or suggest, and in fact teaches away from claim 1.

Thus, claim 1 is not taught or suggested by Stein, Stephens, Ding, and Dawkins, in any combination. Claims 2-4 are dependent on claim 1 and are patentable over Stein, Stephens, Ding, and Dawkins, in any combination, for the reasons argued above, plus the elements in the claims.

Claim 16 recites: "configuring the computer to, if the total degradation for the plurality of the jobs in the first partition exceeds the threshold, shut down a second partition of the plurality of logical partitions in the computer," which is not taught or suggested by Stein, Stephens, Ding, and Dawkins, in any combination, for the reasons argued below. The Office Action admits that Stein, Stephens, and Ding do not describe shutting down a second partition if the determining of whether a difference between the performance metric and an expected performance metric exceeds a threshold is true, and the Office Action relies on Dawkins at the abstract, lines 3-8, and column 9, lines 40-50.

As previously argued above, Dawkins, "Responsive to receiving a request to turn off the power" or "by the activation of a virtual power button," sends a "logical partition power off ... to the service processor." Hence, since Dawkins performs its logical partition power off in response to a request or activation of a virtual power off button and not in response to "if the total degradation for the plurality of the jobs in the first partition exceeds the threshold," as recited in claim 16, Dawkins does not teach or suggest, and in fact teaches away from, claim 16.

Thus, claim 16 is not taught or suggested by Stein, Stephens, Ding, and Dawkins, in any combination. Claims 17-19 are dependent on claim 16 and are patentable over

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Stein, Stephens, Ding, and Dawkins, for the reasons argued above, plus the elements in the claims. Claims 5-15 and 20 are canceled without prejudice or disclaimer, so the rejections are moot.

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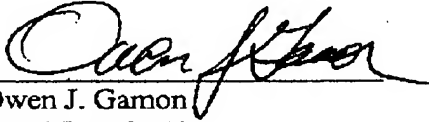
Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is requested. The Examiner is invited to telephone Applicant's attorney (651-645-7135) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 09-0465.

Respectfully submitted,

Date: March 10, 2008

  
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